

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

ARMANDO FUENTES,

§

Plaintiff,

§

V.

§

**UNITED PROPERTY & CASUALTY
INSURANCE COMPANY,**

§

**CIVIL ACTION
NO.:_____**

Defendant.

§

**DEFENDANT UNITED PROPERTY & CASUALTY INSURANCE COMPANY'S
NOTICE OF REMOVAL**

Defendant United Property & Casualty Insurance Company (“Defendant” or “UPC”) files this Notice of Removal:

I. Background

1. On July 24, 2017, Plaintiff Armando Fuentes (“Plaintiff”) filed this lawsuit in Hidalgo County, Texas, naming UPC as Defendant.
2. Plaintiff served UPC with a copy of the Original Petition on August 11, 2017.
3. UPC files this notice of removal within 30 days of receiving Plaintiff’s initial pleading. *See* 28 U.S.C. § 1446(b). In addition, this Notice of Removal is being filed within one year of the commencement of this action. *See id.*
4. As required by Local Rule 81 and 28 U.S.C. § 1446(a), simultaneously with the filing of this notice of removal, attached hereto as Exhibit “A” is an Index of Matters Being Filed. A copy of the Docket Sheet is attached as Exhibit “B.” A copy of the Civil Case Information Sheet is attached as Exhibit “C.” A copy of Plaintiff’s Original Petition is attached

as Exhibit "D" and a copy of the Civil Process Request form is attached as Exhibit "E." A copy of the Citation to UPC is attached as Exhibit "F." A copy of the Return of Service for Original Petition is attached as Exhibit "G." Defendant United Property & Casualty Insurance Company's Original Answer to Plaintiff's Original Petition is attached as Exhibit "H." A letter to the district clerk requesting the court's file is attached hereto as Exhibit "I" and the List of Counsel and Parties to the Case is attached as Exhibit "J." A copy of this Notice is also being filed with the state court and served upon the Plaintiff.

5. Venue is proper in this Court under 28 U.S.C. § 1441(a) because this district and division embrace Hidalgo County, Texas, the place where the removed action has been pending.

II. Basis for Removal

6. Removal is proper based on diversity of citizenship under 28 U.S.C. §§ 1332(a), 1441(a) and 1446. This is a civil action between citizens of different states, and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

A. The Proper Parties Are Of Diverse Citizenship.

7. Plaintiff is, and was at the time the lawsuit was filed, a resident and citizen of Texas.

8. UPC was at the time this action was commenced, and still is, a foreign (Florida) property and casualty insurance company authorized to do business in the State of Texas. UPC is organized under Chapter 982 of the Texas Insurance Code.

9. Because Plaintiff is a citizen of Texas, and Defendant is a citizen of Florida, complete diversity of citizenship exists among the proper parties.

B. The Amount in Controversy Exceeds \$75,000.00.

10. This is a civil action in which the amount in controversy exceeds \$75,000.00.

Plaintiff alleges that UPC is liable under a residential insurance policy because Plaintiff made a claim under that policy and UPC wrongfully adjusted Plaintiff's claim. Plaintiff specifically alleges that he "seeks monetary relief over \$100,000.00 but not more than \$200,000.00." *See Ex. D, ¶ 4.*

11. Moreover, Plaintiff's Original Petition alleges that UPC is liable under various statutory and common law causes of action for consequential damages, statutory penalties, treble damages, exemplary damages, court costs, and attorney's fees. As such, Plaintiff's alleged damages greatly exceed \$75,000.00.

III. Conclusion and Prayer

12. Accordingly, all requirements are met for removal under 28 U.S.C. §§ 1332 and 1441. United Property & Casualty Insurance Company removes this case to this Court for trial and determination.

Respectfully submitted,

/s/ Rhonda J. Thompson

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**COUNSEL FOR DEFENDANT
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INSURANCE COMPANY**

CERTIFICATE OF SERVICE

This is to certify that on the 8th day of September, 2017, a true and correct copy of the foregoing was delivered to the following counsel of record by electronic service and/or facsimile transmission and/or certified mail, return receipt requested:

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